

REMARKS

Reconsideration of the application is respectfully requested.

Applicants wish to thank the Examiner for viewing the present patent application. Moreover, all amendments are supported by the specification as originally filed. Particularly, the Examiner's attention is directed to the figures as originally filed. In view of this, no new matter has been added and all amendments comply with 35 USC § 132.

1. Rejection under 35 USC §102(e)

The Examiner has rejected claims 18 and 19 under 35 USC § 102(e) as being anticipated by Schmed. In the rejection, Examiner mentions, in summary, that the Schmed reference discloses a method of brewing a beverage by inserting a coffee pack into a funnel brewing chamber wherein a perforator means from the funnel brewing chamber is aligned with the coffee pack. In view of this, the Examiner believes that the novelty rejection is warranted.

Notwithstanding, the Examiner's apparent position to the contrary, it is the Applicants' position that the presently claimed invention is patentably distinguishable from the above-described for at least the following reasons.

The present invention, as amended, is directed to a method for brewing a beverage comprising the steps of (a) inserting a filter pack comprising a beverage precursor into a brew funnel of a beverage brewing apparatus and aligning a filter receiving means on

the filter pack onto a key means within the brew funnel; and (b) subjecting the filter pack to water wherein the key means does not pierce or perforate the filter pack. The invention of claim 18 is further defined by the dependent claim which claims, among other things, that the filter pack can comprise a coffee precursor or a tea precursor.

It is not clear with respect to the present office action which Schmed reference the Examiner is relying on because two Schmed references are made of record, 2002/0023543 and 2001/0052294. Nevertheless, both references describe a coffee machine for brewing coffee powder prepacked in a cartridge whereby a perforator member (8) perforates the bottom of the cartridge placed within the machine. As set forth in the presently claimed invention, as amended, the key means of the instant invention does not pierce or perforate the filter pack. In fact, such piercing or perforation would result in undesirable grains and/or leaf ending up in the desired beverage to be produced. The key means of the present invention is only meant to lock and/or hold a filter pack in place such that only one particularly designed filter pack will fit in the brewing apparatus.

In view of the above, all the important and critical limitations set forth in the presently claimed invention are not found in a Schmed reference. Moreover, nothing in the Schmed reference describes resting a filter pack on an elevation device within a brew funnel wherein the key means is mounted on the elevation device, or on the brew funnel. Since all the important and critical limitations of the presently claimed invention, as now amended, are not found in any Schmed reference of record, the novelty rejection be withdrawn and rendered moot.

2. Rejection under 35 USC § 102(e)

The Examiner has rejected claim 18 under 35 USC § 102(e) in view of Lazaris et al., U.S. Patent No. 6,655,260, (hereinafter, '260). In the rejection, the Examiner mentions, in summary, that the '260 reference describes a method of brewing a beverage by inserting a beverage cartridge into a brew funnel of a brewing apparatus wherein a perforator means is aligned with the beverage cartridge. The Examiner believes that the perforator means acts as a key to receiving the beverage cartridge and that the same renders the presently claimed invention anticipated.

Notwithstanding the Examiner's apparent position to the contrary, it is the Applicants' position that the presently claimed invention is patentably distinguishable from the above-described for at least the following reasons.

As already made of record, the present invention is directed to a method for brewing a beverage wherein a filter pack is supplied to a brewing apparatus and the filter pack has a receiving means that is to be aligned with the key means of a brew funnel. As amended, the key means does not pierce or perforate the filter pack. It is respectfully submitted that such a feature is clearly set forth in Applicants' figures as originally filed. Since the '260 reference requires perforation of a beverage cartridge, it is clear that all the important and critical limitations set forth in the presently claimed invention, as now amended, are not found in the '260 reference. Therefore, applicants respectfully request that the novelty rejection be withdrawn and rendered moot.

3. The Examiner has rejected claim 20 under 35 USC §103 as being unpatentable over Schmed or Lazaris et al., U.S. Patent No. 6,655,260 (hereinafter, '260) and further taken together with Cohen, U.S. Patent No. 5,339,596 (hereinafter, '596) and either

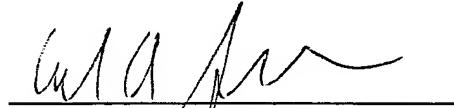
one of Halliday et al., U.S. Patent No. 6,698,333 (hereinafter, '333) or Boyd et al., U.S. Published patent application no. 2002/0048621, (hereinafter, '621).

Notwithstanding, the Examiner's apparent position to the contrary, it is the Applicants' position that the presently claimed invention is patentably distinguishable from the above-described for at least the following reasons.

For the reasons set forth above, neither Schmed reference nor the '260 reference even remotely describes a method for brewing a beverage wherein a filter pack is placed in a beverage brewing machine such that the filter pack is aligned within the brew funnel of the brewing machine and not perforated or pierced by a key means within the brew funnel of the brewing machine. In view of these amendments, and in an effort to expedite the prosecution of the present patent application, it is clear that the combination of references relied on by the Examiner does not, even remotely, establish a *prima facie* case of obviousness as required under 35 USC §103. In view of this, it is respectfully requested that the obviousness rejection be withdrawn and rendered moot.

In the event the Examiner has any questions concerning the present patent application, he is kindly invited to contact the undersigned at his earliest convenience.

Respectfully submitted,



Edward A. Squillante, Jr.
Attorney for Applicant(s)
Reg. No. 38,319

EAS/mt
(201) 894-2925